IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 62 OF 1997

Tukaram Dadu Yadav)
Accountant - Brihanmumbai)
Mathadi Kamgar Sahakari)
Patpedhi Ltd. Jivraj Bhanji)
Shah Market, Yusuf Meherali)
Road, Mumbai. 400 009.) ....Petitioner.

V/s

1. Subhas Jagannath Pawar)
J/N/1/41/10, Juhu Nagar,)
Sector No.9, Navi Mumbai)
)
2. State of Maharashtra) .....Respondents.

Mr. R.B. Parab with Mr. D.S. Sawant for the petitioner.

Ms. M.H. Mhatre, APP for the State.

CORAM: V.M. KANADE, J.

DATE : 8th September, 2006

ORAL JUDGMENT:

1. Heard the learned Counsel for the petitioner and the learned APP for the State.

2. This Criminal Revision Application is filed by the original complainant challenging the judgment and order passed by the Additional Chief Metropolitan Magistrate whereby the accused was acquitted of the offence punishable under section 408 IPC.

3. It is an admitted position that no appeal has been filed by the State. That being the position, the scope and power of this Court while exercising its jurisdiction under section 401 of the Cr.P.C is very limited. Firstly, this court cannot convert the order of acquittal into that of conviction while exercising jurisdiction under section 401 in view of the specific bar as laid down in sub-clause (3) of section 401. Secondly, this Court also cannot interfere with the finding which is recorded by the trial court unless it is shown that the finding is perverse or is based on extraneous

considerations.

4. I have perused the judgment and order passed by the trial court. The submission made by the learned Counsel for the petitioner that the finding recorded by the trial court is erroneous cannot be accepted as it is not possible to re-appreciate the evidence. There is thus no illegality in the procedure which is followed by the trial court nor can it be said that the finding of the trial court is perverse. There is no reason to interfere with the order passed by the Magistrate. Criminal Revision Application is dismissed.

(V.M. KANADE, J.)